

## Message Text

CONFIDENTIAL

PAGE 01 STATE 012758  
ORIGIN L-03

INFO OCT-01 IO-13 ISO-00 ORM-02 DHA-02 INSE-00 CIAE-00  
DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00 PM-04  
H-01 INR-07 NSC-05 PA-01 PRS-01 SP-02 SS-15 SY-05  
USSS-00 VO-03 SCA-01 FBIE-00 /066 R

DRAFTED BY L:SMSCHWEBEL:MRP  
APPROVED BY L - STEPHEN M. SCHWEBEL  
D/HA/ORM - GWARREN  
INS - SBERNSEN (SUBS)  
D/HA - JWILSON

-----192155Z 102929 /62

O R 192118Z JAN 77  
FM SECSTATE WASHDC  
TO USMISSION GENEVA IMMEDIATE  
INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 012758

E.O. 11652:GDS

TAGS: SREF, UNCHR

SUBJECT:DRAFT CONVENTION ON TERRITORIAL ASYLUM

1. SCHWEBEL AND WARREN MET WITH INS GENERAL COUNSEL  
BERNSEN TODAY AND REACHED AGREEMENT AS FOLLOWS,  
SUBJECT TO CONFIRMATION BY INS COMMISSIONER CHAPMAN.
2. USG WILL SEEK NO RPT NO AMENDMENT TO ARTICLE 5  
OR ANY OTHER AMENDMENT DESIGNED TO MEET INS CONCERNS  
ABOUT MASS INFLUX.
3. HOWEVER, USDEL WILL PLACE FOLLOWING STATEMENT ON  
RECORD AT CONFERENCE IN CONNECTION WITH ADOPTION OF  
ARTICLE 5:  
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PAGE 02 STATE 012758

"IN VIEW OF THE PROVISIONS OF THE DRAFT CONVENTION,  
PARTICULARLY ARTICLES 1, 3, 4 AND 5, THE U.S. DELE-  
GATION RECOGNIZES THAT NO LIMITATION ON THE NUMBER  
OF PERSONS TO WHICH A CONTRACTING STATE IS OBLIGED  
TO ACCORD ASYLUM IS CONTAINED IN THE CONVENTION. IT  
DOES NOT BELIEVE THAT SUCH A LIMITATION SHOULD BE

(SHOULD HAVE BEEN) INTRODUCED INTO THE CONVENTION. IT NOTES, MOREOVER, THAT ARTICLE 5 CONTEMPLATES THE

THE POSSIBILITY OF A CONTRACTING STATE EXPERIENCING DIFFICULTIES IN THE CASE OF A SUDDEN OR MASS INFLUX OF PERSONS SEEKING ASYLUM; THUS THE POSSIBILITY OF A 'MASS' INFLUX IS RECOGNIZED. AT THE SAME TIME, THE BASIC OBLIGATION OF A CONTRACTING STATE IS, 'ACTING IN THE EXERCISE OF ITS SOVEREIGN RIGHTS,' TO USE ITS 'BEST ENDEAVORS IN A HUMANITARIAN SPIRIT TO GRANT ASYLUM TO ANY PERSON ELIGIBLE...' IN THE VIEW OF THE UNITED STATES, THIS FUNDAMENTAL PROVISION SHOULD BE CONSTRUED TO IMPORT A 'RULE OF REASON' IN THE INTERPRETATION OF A CONTRACTING STATE'S OBLIGATION TO AFFORD ASYLUM TO IMMENSE NUMBERS OF PERSONS. WHILE A STATE MAY IN FACT BE GENEROUS IN THIS REGARD, AS A NUMBER OF STATES IN RECENT YEARS HAVE BEEN, IT SHOULD BE UNDERSTOOD THAT, IN CONSIDERING ADMISSION OF IMMENSE NUMBERS OF PERSONS, A CONTRACTING STATE IS ENTITLED TO WEIGH THEIR IMPACT ON ITS SOCIETY AND SECURITY AND ITS POSSIBILITIES OF ACCOMMODATING THEM WITHOUT EXCESSIVE STRAIN, AND, IF NEEDS BE, TO DECLINE TO AFFORD ASYLUM TO SUCH PERSONS OR TO LIMIT THEIR NUMBER. THE HUMANITARIAN CONSIDERATIONS WHICH A CONTRACTING STATE WILL BRING TO BEAR WILL NECESSARILY EMBRACE THE SITUATION NOT ONLY OF THOSE PERSONS SEEKING ASYLUM BUT OF THOSE NORMALLY RESIDENT IN ITS TERRITORY."

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 012758

4. WE CONTEMPLATE THAT, IF CONVENTION IS SUBMITTED TO SENATE FOR ADVICE AND CONSENT, WE WOULD JOIN INS IN SEEKING A SENATE UNDERSTANDING TO FOREGOING EFFECT.

5. WE INDICATED AND BERNSEN AGREED THAT, IF FOREGOING CONFIRMED BY GENERAL CHAPMAN, WITH THIS STATEMENT INS WILL SUPPORT ADOPTION OF CONVENTION IN ACCORDANCE WITH POSITION PAPER.

6. BERNSEN HAS SUBSEQUENTLY TELEPHONED TO CONFIRM THAT GENERAL CHAPMAN ACCEPTS THE STATEMENT SET FORTH IN PARA. 3 OF THIS MESSAGE. INS HAS ACCORDINGLY CLEARED THIS MESSAGE.  
KISSINGER

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NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AGREEMENT DRAFT, AGREEMENTS, POLITICAL ASYLUM, AMENDMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 19-Jan-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1977STATE012758  
**Document Source:** CORE  
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**Drafter:** SMSCHWEBEL:MRP  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
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**Litigation History:**  
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**Office:** ORIGIN L  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
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**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
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**Review Event:**  
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**Review Media Identifier:**  
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**Review Release Event:** n/a  
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**Review Withdrawn Fields:** n/a  
**SAS ID:** 3555560  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** DRAFT CONVENTION ON TERRITORIAL ASYLUM  
**TAGS:** SREF, UNCHR  
**To:** GENEVA  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/410508d4-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
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